

REMARKS

The Attorney for Applicant certifies that, to the best of his knowledge, these substitute claims contain no new matter.

Basis for the New Substitute Claims

The basis of the new claim 7, the first practical application of the invention, can be found in the book “Principles of Simulation-Based Computer-Aided Engineering” example 5 described on page 48, the “footwell” example described on page 147, the reflector example 3 described on page 90 and the composition impact performance example 7 described on page 122, (all of which were incorporated by reference into the specification of the provisional application) in combination with the language found in the provisional application itself.

The basis of the new claim 8, a second practical application of the invention, is from the example on page 42 of the book “Principles of Simulation-Based Computer-Aided Engineering,” (which was incorporated by reference into the specification of the provisional application) in combination with the language found in the provisional application itself, including the dolphin example in the provisional application on page 3 in the last paragraph. This example, on the last paragraph of page 42 of Principles of Simulation-Based Computer-Aided Engineering, describes a process for predicting the behavior of a target population under given conditions (see election example).

The basis of claim 9, a third practical application of the invention, can be found in the language of the book “Principles of Simulation-Based Computer-Aided Engineering” in the example on page 72, (which was incorporated by reference into the specification of the provisional application) in combination with the language found in the provisional application itself. This example on the last paragraph of page 72 in Principles of Simulation-Based Computer-Aided Engineering, describes a method for this invention to process electro-magnetic signals.

The basis of claim 10, which describes a process for building new materials through computer analysis, is a fourth practical application of this invention, is from the examples in the book “Principles of Simulation-Based Computer-Aided Engineering,” including the example described on page 154, the reflector example 3 described on page 90, and the composition impact performance example 7 described on page 122, (all of which were incorporated by reference into the specification of the provisional application) in combination with the language found in the provisional application itself.

The basis for claims 11, 12 and 13 -- a fifth practical application of the invention -- (which describes the optimizing a process through computer analysis) can be found in the language of the book “Principles of Simulation-Based Computer-Aided Engineering in the example on page 145, (which was incorporated by reference in the specification of the provisional application) in combination with the language found in the provisional application itself.

Please Note that this list of applications of this invention is not necessarily comprehensive.

Response to Rejections

Examiner has rejected the claims pursuant to 35 U.S.C. §101, asserting that none of the claims are limited to practical applications in the technological, as would be required pursuant to In re Warmerdam, 33 F.3d 1354, 31 USPQ2d 1754 (Fed. Cir.1994). Given that, Examiner has cited In re Warmerdam “when it judged the usefulness, concreteness, and tangibility of the claim limitations.” Applicant has included substitute claims that reference “practical applications of the technology” that are “useful, concrete, and tangible.” Applicant has amended his claims so that the new claims meet the In re Warmerdam practical application requirements and thus the basis of Examiner’s 35 U.S.C. §101 has been eliminated.

Examiner has rejected Claims 1-6 pursuant to 35 U.S.C. §112, first paragraph because, according to Examiner, “the current case law (and accordingly, the MPEP) require such a rejection if a §101 rejection is given because when Applicant has not in fact disclosed the practical application for the invention, as a matter of law there is no way Applicant could have disclosed *how to* practice the *undisclosed* practical application.” Applicant has, by amending the claims, and by supplying one of the references, incorporated by reference in Applicant’s provisional application, overcome the 35 U.S.C. §101 rejection. This supplied reference was not in the possession of Examiner when he issued his office action; this reference discloses how to practice the practical applications of said invention, therefore, the Examiner’s 35 U.S.C. §112 rejection has, through amending the claims and by supplying the key reference, overcome said §112 rejection.

In his office action Examiner has cited a number of references (prior art) made of record and not relied upon is considered pertinent to Applicant's disclosure. None of these references cited would be the basis of a 35 U.S.C. §102 or a 35 U.S.C. §103 rejection.

CONCLUSION

For all the above reasons, Applicant submits that the specification and claims are now in proper form, and that the claims all define patentability over the prior art. Therefore, Applicant submits that the application is now in condition for allowance, which action he respectfully solicits.

Respectfully submitted,



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